

**Assembly Bill No. 467**

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Passed the Assembly August 24, 2012

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*Chief Clerk of the Assembly*

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Passed the Senate August 22, 2012

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2012, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 75101 of the Public Resources Code, relating to the environment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

AB 467, Eng. Environment: Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

(1) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative statute approved by the voters at the November 7, 2006, statewide general election, makes approximately \$5.4 billion in bond funds available for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. The bond act makes \$60,000,000 available to the State Department of Public Health (department) for the purpose of loans and grants for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water and requires the department to require repayment for costs that are subsequently recovered from parties responsible for the contamination. Existing law requires the department, in collaboration with the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board, to develop and adopt regulations governing the repayment of costs that are subsequently recovered from parties responsible for the contamination of groundwater. Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, creates in the General Fund the Site Remediation Account, and authorizes the money in that account to be expended by the DTSC, upon appropriation by the Legislature, for direct site remediation costs.

This bill would require the department to adopt the implementing regulations as emergency regulations, pursuant to a specified procedure, and would require the emergency regulations to remain in effect for 180 days after the effective date of those emergency

regulations, by which time the department would be required to adopt regulations.

The bill would require the regulations to include a provision allowing the department to enter into an agreement with a grantee that recovers the funds that would authorize the expenditure of the recovered funds to implement ongoing treatment and remediation activities in accordance with the purposes for which funds may be granted pursuant to the bond act.

The bill would establish the Groundwater Contamination Prevention Account in the State Treasury and would require the department to deposit in that account the funds recovered from responsible parties pursuant to the payment recovery provisions in the bond act. The bill would continuously appropriate funds in the account to the department for purposes of implementing the groundwater contamination cleanup and prevention provisions of the bond act, thereby making an appropriation.

The bill would authorize the department to expend up to 3% of the recovered funds deposited in the Groundwater Contamination Prevention Account to pay for the department's oversight costs.

The bill would authorize the department to enter into a memorandum of understanding with the DTSC to provide oversight activities or to transfer funds from the Groundwater Contamination Prevention Account to the Site Remediation Account. The bill would appropriate the transferred funds to the DTSC for purposes of implementing the department's agreement with a grantee.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 75101 of the Public Resources Code is amended to read:

75101. (a) For the purposes of implementing Section 75025, the State Department of Public Health shall do both of the following:

(1) Develop guidelines pursuant to Section 75100 in collaboration with the Department of Toxic Substances Control and the state board.

(2) (A) In collaboration with the Department of Toxic Substances Control and the state board, develop and adopt regulations governing the repayment of costs that are subsequently recovered from parties responsible for the contamination.

(B) The State Department of Public Health shall adopt the initial regulations required pursuant to this paragraph as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until 180 days after the effective date of the emergency regulations. On or before 180 days after the effective date of the emergency regulations, the State Department of Public Health shall adopt regulations pursuant to this paragraph in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(C) The regulations adopted pursuant to this paragraph shall include a provision authorizing the State Department of Public Health to enter into an agreement with the grantee that recovers the funds that would authorize the expenditure of the recovered funds to implement ongoing treatment and remediation activities in accordance with the purposes for which funds may be granted pursuant to Section 75025.

(b) (1) There is hereby established the Groundwater Contamination Prevention Account in the State Treasury. The State Department of Public Health shall deposit all funds recovered from responsible parties pursuant to Section 75025 in the Groundwater Contamination Prevention Account. The funds in the account are hereby continuously appropriated to the State Department of Public Health for purposes of implementing Section 75025, as specified in this section.

(2) The State Department of Public Health may expend up to 3 percent of the recovered funds deposited in the Groundwater Contamination Prevention Account to pay for the oversight costs of the State Department of Public Health to ensure the grantee expends the recovered funds on additional groundwater cleanup activities in furtherance of the purposes of Section 75025.

(c) As an alternative to expending funds to oversee grantees, as described in paragraph (2) of subdivision (b), the State Department of Public Health and the Department of Toxic Substances Control may enter into a memorandum of understanding that would do either of the following:

(1) Authorize the Department of Toxic Substances Control to provide the oversight activities described in paragraph (2) of subdivision (b) in lieu of the State Department of Public Health.

(2) Transfer recovered funds from the Groundwater Contamination Prevention Account to the Site Remediation Account established pursuant to Section 25337 of the Health and Safety Code.

(d) Any funds transferred from the Groundwater Contamination Prevention Account to the Site Remediation Account pursuant to paragraph (2) of subdivision (c) are hereby appropriated therefrom to the Department of Toxic Substances Control for purposes of implementing an agreement with a grantee pursuant to the regulations adopted pursuant to subparagraph (C) of paragraph (2) of subdivision (a).

(e) For the purposes of implementing subdivision (a) of Section 75050, the Department of Fish and Game, when funding a natural community conservation plan, shall fund only the development of a natural community conservation plan that is consistent with the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code).

(f) The San Francisco Bay Area Conservancy may use the funds made available pursuant to subdivision (c) of Section 75060 to restore the salt ponds in the south San Francisco Bay and to create trails and visitor facilities for public use in that area.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow a grantee conducting groundwater cleanup activities to continue those activities, thereby better protecting public health and safety and the environment, it is necessary that this act take effect immediately.



Approved \_\_\_\_\_, 2012

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*Governor*